



*Commonwealth of Massachusetts*  
*Department of the State Treasurer*  
*Alcoholic Beverages Control Commission*  
239 Causeway Street  
Boston, MA 02114  
Telephone: (617) 727-3040  
Fax: (617) 727-1258

Timothy P. Cahill  
*Treasurer and Receiver General*

Kim S. Gainsboro  
*Chairman*

THE ALCOHOLIC BEVERAGES CONTROL COMMISSION MEMORANDUM ON 10 a.m.  
SUNDAY SALES BY §12 LICENSE HOLDERS

Effective July 1, 2010, a new law amending M.G.L. c. 138, §33B authorizes local liquor licensing authorities ("LLA") to permit M.G.L. c. 138, §12 licensees to sell alcoholic beverages at 10 a.m. on Sundays. On July 2, 2010, the Alcoholic Beverages Control Commission issued an Advisory on the recent change to the law that controls Sunday Sales by §12 licensees. Since the ABCC issued the advisory, it has continued to receive inquiries from local licensing authorities ("LLAs") and attorneys on the process required to implement this change.

The amendment grants LLA's the discretionary authority to expand the permissible hours of sale of alcoholic beverages on Sundays. In order to take advantage of the law, each city or town must "opt into" it. Once a city or town has "opted in" the LLA's have discretion to allow any or every §12 licensee in their community to sell alcoholic beverages on Sundays, starting at 10 a.m.

Four (4) steps are necessary to implement this change and allow any or every §12 licensee to sell alcoholic beverages at 10 a.m. on Sundays.

- Step 1: M.G.L. c. 138, § 33B, as most recently amended, must be accepted and "activated" in the community.
- Step 2: Once the amended law has been "activated" in the community, the LLA must decide how it will administer its newly expanded discretionary hours of sale. Each LLA may choose to grant these discretionary hours of sale
- (a) to every §12 licensee to sell at the maximum hours now authorized by §33B or
  - (b) to wait for applications by each individual §12 licensee and thereby choose whether to grant the additional discretionary hours of sale on a case-by-case basis.
- Step 3: The LLA must hold a hearing that complies with the Open Meeting Law to grant the newly expanded discretionary hours of sale to any or every §12 licensee.
- Step 4: ABCC approval for these discretionary hours of sale is not required; but as always the LLA must forward an informational "Form 43" with the Sunday hours of sale to the ABCC. A §12 license holder who is denied the discretionary hour of sale may not appeal that denial to the ABCC.

The ABCC does not take a legal position or interpretation of the process required by M.G.L. c. 138, §33B, and defers to legal counsel for the individual cities and towns to advise the LLA on the process required to administer this recent change. However, any LLA that currently grants 11 a.m. openings to §12 licensees may wish to review its municipal records to determine the process previously taken to effectuate § 33B in the community. The prior action taken to accept the earlier version of §33B (first enacted in 1979) may already give the LLA the legal discretion to consider granting 10 a.m. openings. For example, the LLA or other municipal body may have previously voted to accept the provisions of M.G.L. c. 138, §33B thereby also accepting this most recent 2010 amendment. If however, the LLA or other municipal body did not previously vote to accept the provisions of M.G.L. c. 138, § 33B, but voted only to authorize 11 a.m. openings on Sundays, then a further process is required to effectuate the additional hour of sale on Sundays.

Individuals with questions concerning this Memorandum or the previous Advisory and the new Sunday Sales law may contact, the ABCC at 617-727-3040 x 31.

(Issued: Tuesday July 13, 2010)